

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
DALLAS, TEXAS

IN THE MATTER OF:	§	
	§	
NEW-ENGLAND MUTUAL LIFE	§	
INSURANCE COMPANY	§	
	§	
A-INTERNATIONAL DISTRIBUTION	§	
CORPORATION, d/b/a	§	
INTERNATIONAL DISTRIBUTION	§	
CORPORATION	§	
	§	
HOUSTON TRANSFER & STORAGE	§	
	§	DOCKET NUMBER
RESPONDENTS	§	
	§	CERCLA-VI-05-88
REGARDING THE	§	
	§	
A-INTERNATIONAL DISTRIBUTION	§	
(AID) WAREHOUSE SITE	§	
HOUSTON, HARRIS COUNTY, TEXAS	§	
TXD 987966066	§	
PROCEEDING UNDER §106(a)	§	
OF THE COMPREHENSIVE	§	
ENVIRONMENTAL RESPONSE,	§	
COMPENSATION AND LIABILITY	§	
ACT OF 1980 (42 U.S.C.	§	
§9606(a)), AS AMENDED	§	

PRELIMINARY RESPONSE TO ADMINISTRATIVE ORDER

TO THE REGIONAL ADMINISTRATOR:

A-International Distribution Corporation d/b/a International Distribution Corporation (hereinafter "IDC") and Houston Transfer & Storage Co. (hereinafter "Houston Transfer & Storage"), being two of the three respondents to the captioned Administrative Order (and hereinafter being jointly



referred to for the purposes of this response as "Respondents") file this preliminary response to said order, reserving their right to supplement this response later, and would now respond as follows:

I.

The Administrative Order was received by IDC and Houston Transfer & Storage, Respondents, on June 27, 1988, the effective date of said order.

II.

Respondents answer in the following corresponding fashion to the numbered paragraphs in the Administrative Order:

1. Admitted.

2. Respondents admit that they carry out general warehouse business operations on the premises, including the routine and safe storage of industrial chemical products, but Respondents deny that the area around the premises is "predominantly residential". The area is predominantly a commercial/light industrial area, particularly in the predominant downwind direction, with some residences located in the predominant upwind direction.

3. Respondents admit that approximately ninety-one drums of material, initially received as chemical product, are present at the site, all contained inside a warehouse building having a concrete floor, a roof and four walls. While the drums are aging, Respondents would note that,

prior to receipt at the site, the original drums had already been re-packed in new metal drum containers, and there is no visible leakage occurring from the present containers, all of which are located inside the warehouse building.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted as to the part of the warehouse/office complex leased by A-International Distribution Corporation.

8. Admitted.

9. Admitted.

10. Respondents admit that materials included in the drums are, in part, "hazardous substances"; however, due to their present containment inside the drums and the warehouse building, Respondents deny that said materials are presently subject to the terms and conditions of CERCLA since there is no release or threat of release to the environment.

11. Admitted as a general proposition, but Respondents deny that there is a "release" or a "threat of a release" at the site.

12. Denied.

13. Admitted.

14. If there were a "release" or "threat of a release" at the site, this may be true, subject to available defenses under CERCLA, but Respondents deny liability in this case.

15. Denied as to "all costs", as CERCLA prescribes which costs (e.g., response costs) are recoverable.

16. Denied. EPA has offered no evidence to indicate that a release or a threat of a release to the environment exists which would pose a real and substantial endangerment to public health or welfare or the environment.

15. [sic - 17]. Denied as to the ordered actions. Respondents intend to remove by legal sale or disposal the material in question.

18. Respondents are without sufficient information to form a belief as to the truth of the assertion that Pat Hammack has been appointed as the On-Scene Coordinator (OSC) by EPA; in fact, Respondents have been orally informed over the telephone by John Meyer of Region VI that David Dodgen has been appointed as OSC by Region VI.

19. Not necessarily true in all cases. EPA may possibly legally bind itself through formal or informal actions by someone other than the OSC.

20. a. Through this response and via telephone, Respondents are complying with the requirement to contact Mr. John Meyer. Respondents intend to remove the material in question in a safe and lawful manner.

b. Respondents hereby appoint Mr. Douglas Walt as Facility Coordinator. Mr. Walt is president of International Distribution Corporation, and he may be contacted by

mail at 7198 Mykawa Road, Houston, Texas, 77033 [(713) 645-4080]. EPA is hereby put on notice, however, that the undersigned has been retained as legal counsel for Respondents, and we expect all EPA communications to be coordinated with the undersigned as well.

c. Respondents will submit a Plan to legally sell or dispose of the material, and the Plan shall include any necessary sampling and re-packing. In that regard, Respondents have today forwarded a Freedom of Information Act request to Region VIII of the EPA requesting copies of previously obtained sample results on the material, which Region VIII of the EPA, through Mr. Don Shosky, has indicated is in Region VIII's possession. A separate FOIA request is also being sent to Region VI concerning available data. Respondents will also seek, and hereby request, mixed funding from EPA to assist in the removal effort. A more formal, complete application for mixed funding will follow, if necessary.

d. Respondents will submit a Plan, but timing is dependent on EPA's responses to Respondents' FOIA requests and mixed funding application.

e. Respondents will comply with lawful EPA requirements.

21. Respondent will comply with applicable Federal and State laws and/or regulations.

22. Respondents will not interfere with, obstruct, or undo efforts taken by any party to this Order unless actions taken are illegal, unreasonable, arbitrary or capricious.

25.-32. Respondents recognize the contents of these paragraphs.

33.-34. Respondents have heretofore made an oral request over the telephone to Mr. John C. Meyer for a conference with Region VI of EPA, and this responsive paragraph should be deemed Respondents' written notice to the Regional Administrator for such conference.

35. Respondents deny that they are subject to civil penalties and/or punitive damages for failure to comply with the Administrative Order. In line with their rights to due process, Respondents request a timely adjudicative hearing prior to the imposition of any liability, civil penalties and/or punitive damages.

Respectfully submitted,

CRAIN, CATON & JAMES

By: 

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ATTORNEYS FOR RESPONDENTS,
INTERNATIONAL DEVELOPMENT
CORPORATION and HOUSTON
TRANSFER & STORAGE CO.

CERTIFICATE OF SERVICE

I, Robert E. Morse, III, do hereby certify that on this the 29th day of June, 1988 the foregoing Preliminary Response to Administrative Order was forwarded by Federal Express to Ms. Carmen Lopez, Regional Hearing Clerk, U.S. Environmental Protection Agency - Region VI, 1445 Ross Avenue, Dallas, Texas, 75202-2733, to Mr. John C. Meyer, Superfund Compliance Branch (6H-EC), U.S. Environmental Protection Agency - Region VI, 1445 Ross Avenue, Dallas, Texas, 75202-2733, and to Mr. Steven L. Parker, Assistant Regional Counsel, U.S. Environmental Protection Agency - Region VI, 1445 Ross Avenue, Dallas, Texas, 75202-2733.

A handwritten signature in cursive script, appearing to read "Robin Morse", written over a horizontal line.

Robert E. "Robin" Morse, III